

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TIMOTHY YOUNG,

Plaintiff,

v.

Cause No. 13-CV-01087 SMV/LAM

HIDALGO COUNTY; HIDALGO COUNTY
SHERIFF OFFICERS PATRICK GREEN,
JAVIER PERU and DAVID ARREDONDO

Defendants.

**DEFENDANTS HIDALGO COUNTY'S, PATRICK GREEN'S, JAVIER PERU'S AND
DAVID ARREDONDO'S ANSWER TO COMPLAINT**

Defendants Hidalgo County, Hidalgo County Sheriff Officers Patrick Green, Javier Peru and David Arredondo (hereinafter, "Hidalgo County Defendants") by and through their counsel of record, HOLT MYNATT MARTINEZ P.C. (Damian L. Martinez) answer Plaintiff's complaint as follows:

JURISDICTION AND VENUE

Hidalgo County Defendants admit that jurisdiction and venue is proper in this Court.

PARTIES

1. Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint and therefore, deny the same.

2. Hidalgo County Defendants admit the allegations contained in paragraphs 3, 4 and 5 of the Complaint.

3. Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and therefore, deny the same.

4. Defendant Peru admits that he pulled behind Plaintiff at the Flying J truck stop, however, denies the balance of the allegations in paragraph 7 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint and therefore, deny the same.

5. Defendant Peru admits the allegations contained in paragraph 8 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint and therefore, deny the same.

6. Defendants Peru and Green admit the allegations contained in paragraph 9 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint and therefore, deny the same.

7. Defendant Peru denies the allegations contained in paragraph 10 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint and therefore, deny the same.

8. Defendant Peru admits the allegations contained in paragraph 11 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint and therefore, deny the same.

9. Defendant Peru admits the allegations contained in paragraph 12 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint and therefore, deny the same.

10. Defendants Peru and Arredondo admit the allegations found in paragraph 13 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint and therefore, deny the same.

11. Defendants Peru and Green admit the allegations contained in paragraph 14 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint and therefore, deny the same.

12. Defendant Peru denies the allegations contained in paragraph 15 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint and therefore, deny the same.

13. The Hidalgo County Defendants admit the allegations in paragraph 16 of the Complaint inasmuch as it states Plaintiff consented to a search of his vehicle, however, the Hidalgo County Defendants deny the balance of the allegations contained therein.

14. Defendant Peru denies the allegations contained in paragraph 17 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint and therefore, deny the same.

15. Defendant Peru denies the allegations contained in paragraph 18 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint and therefore, deny the same.

16. Hidalgo County Defendants admit the allegations contained in paragraph 19 of the Complaint.

17. Defendant Peru is without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 20 of the Complaint and therefore, denies the same. The remaining Hidalgo County Defendants admit the allegations found in paragraph 20 of the Complaint.

18. Hidalgo County Defendants admit the allegations contained in paragraphs 21, 22 and 23 of the Complaint.

19. Hidalgo County Defendants deny the allegations contained in paragraphs 24 and 25 of the Complaint.

20. Defendants Peru and Arredondo are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 26 of the Complaint and therefore, deny the same. Defendant Green denies the allegations contained in paragraph 26.

21. Defendants Peru and Arredondo are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 27 of the Complaint and therefore, deny the same. The remaining Hidalgo County Defendants admit the allegations contained in paragraph 27.

22. Defendants Peru, Arredondo and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 28 of the Complaint and therefore, deny the same. Defendant Green admits the allegations contained in paragraph 28 of the Complaint.

23. Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 29 of the Complaint and therefore, deny the same.

24. Defendants Peru and Arredondo are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 30 of the Complaint and therefore, deny the same. The remaining Hidalgo County Defendants deny the allegations contained in paragraph 30 of the Complaint.

25. Defendants Peru and Arredondo are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 31 of the Complaint and therefore, deny the same. The remaining Hidalgo County Defendants deny the allegations contained in paragraph 31 of the Complaint.

26. Defendants Peru and Arredondo are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 32 of the Complaint and therefore, deny the same. The remaining Hidalgo County Defendants deny the allegations contained in paragraph 32 of the Complaint.

27. Defendants Peru, Arredondo and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the Complaint and therefore, deny the same. Defendant Green admits the allegations contained in paragraph 33 of the Complaint.

28. Hidalgo County Defendants deny the allegations contained in paragraphs 34 and 35 of the Complaint.

29. Defendants Peru and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the Complaint and therefore, deny the same. The remaining Hidalgo County Defendants admit the allegations contained in paragraph 36 of the Complaint.

30. Defendant Peru and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 37 of the Complaint and therefore, deny the same. The remaining Hidalgo County Defendants admit the allegations contained in paragraph 37 of the Complaint.

31. Hidalgo County Defendants deny the allegations contained in paragraph 38 of the Complaint.

32. Defendants Peru, Green and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 39 of the Complaint and therefore, deny the same. Defendant Arredondo admits the allegations found therein.

33. Hidalgo County Defendants deny the allegations contained in paragraph 40 of the Complaint.

34. Defendants Peru, Green and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 41 of the Complaint and therefore, deny the same. Defendant Arredondo admits the allegations contained in paragraph 41 of the Complaint.

35. Defendants Peru, Green and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 42 of the Complaint and therefore, deny the same. Defendant Arredondo admits the allegations contained in paragraph 42 of the Complaint.

36. Hidalgo County Defendants deny the allegations contained in paragraph 43 of the Complaint.

37. Defendants Peru, Green and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 44 of the Complaint and therefore, deny the same. Defendant Arredondo admits the allegations contained in paragraph 44 of the Complaint.

38. Hidalgo County Defendants deny the allegations contained in paragraphs 45, 46, 47, 48 and 49 of the Complaint.

39. Defendants Peru, Arredondo and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 50 of the Complaint and therefore, deny the same. Defendant Green admits the allegations contained in paragraph 50 of the Complaint.

40. Hidalgo County Defendants deny the allegations contained in paragraphs 51 and 52 of the Complaint.

41. Defendants Peru, Arredondo and Hidalgo County are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 53 of the Complaint and therefore, deny the same. Defendant Green admits the allegations contained in paragraph 53 of the Complaint.

42. Hidalgo County Defendants deny the allegations contained in paragraphs 54 and 55 of the Complaint.

43. Defendant Arredondo denies the allegations contained in paragraph 56 of the Complaint. The remaining Hidalgo County Defendants admit the allegations found in paragraph 56 of the Complaint.

44. Hidalgo County Defendants admit the allegations contained in paragraph 57 of the Complaint.

45. Defendants Peru and Arredondo are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the Complaint and therefore, deny the same. The remaining Hidalgo County Defendants admit the allegations contained in paragraph 58.

46. Defendants Peru and Arredondo are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 59 of the Complaint and therefore, deny the same. The remaining Hidalgo County Defendants admit the allegations contained in paragraph 59 of the Complaint.

47. Hidalgo County Defendants deny the allegations found in paragraphs 60, 61 and 62 of the Complaint.

48. Defendants Peru and Green admit the allegations found in paragraph 63 of the Complaint. The remaining Hidalgo County Defendants deny the allegations found in paragraph 63 of the Complaint.

49. Defendants Peru and Green admit the allegations found in paragraphs 64 and 65 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or

information sufficient to form a belief as to the truth of the allegations found in paragraphs 64 and 65 of the Complaint and therefore, deny the same.

50. Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 66 and of the Complaint and therefore, deny the same.

51. Defendants Peru and Green admit the allegations found in paragraphs 67, 68, 69 and 70 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraphs 67, 68, 69 and 70 of the Complaint and therefore, deny the same.

52. Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations found in paragraph 71 of the Complaint and therefore, deny the same.

COUNT I
UNREASONABLE SEARCH AND SEIZURE (OCTOBER 13, 2012 TRAFFIC STOP)
(DEFENDANTS PERU, GREEN AND ARREDONDO)

53. Hidalgo County Defendants deny the allegations found in paragraphs 72, 73, 74, 75, 76, 77 and 78 of the Complaint.

COUNT II
UNREASONABLE SEARCH AND SEIZURE (OCTOBER 13, 2012 EXCEED THE
SCOPE OF THE TRAFFIC STOP) (DEFENDANTS PERU, GREEN AND
ARREDONDO)

54. Hidalgo County Defendants deny the allegations found in paragraphs 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 91 of the Complaint.

COUNT III

UNREASONABLE SEARCH AND SEIZURE (OCTOBER 13, 2012 TRAFFIC STOP RE: ARREST) (DEFENDANTS PERU, GREEN AND ARREDONDO)

55. Defendant Peru admits the allegations found in paragraph 92 of the Complaint. The remaining Hidalgo County Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore, deny the same.

56. Hidalgo County Defendants deny the allegations contained in paragraphs 93, 94, 95, 96, 97, 98, 99 and 100 of the Complaint. Furthermore, Hidalgo County Defendants affirmatively state that Plaintiff was never placed under arrest as alleged in paragraphs 95 and 96 of the Complaint.

COUNT IV

UNREASONABLE SEARCH AND SEIZURE (OCTOBER 13, 2012 TRAFFIC STOP RE: WARRANT) (DEFENDANTS PERU, GREEN AND ARREDONDO)

57. Hidalgo County Defendants deny the allegations contained in paragraphs 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118 and 119 of the Complaint.

COUNT V

**UNREASONABLE SEARCH AND SEIZURE
(OCTOBER 13, 2012 TRAFFIC STOP RE: "LEO")
(DEFENDANTS HIDALGO COUNTY AND GREEN)**

58. The allegations made in Count V are not brought against Defendants Peru and Arredondo, however to the extent that any of the allegations found in paragraphs 120 through 129 can be construed against Defendants Peru and Arredondo, those Defendants deny all allegations contained in those paragraphs.

59. Defendants Hidalgo County and Green deny the allegations contained in paragraphs 120, 121, 122, 123, 124, 125, 126, 127, 128 and 129 of the Complaint.

COUNT VI
UNREASONABLE SEARCH AND SEIZURE (OCTOBER 13, 2012 X-RAY)
(DEFENDANTS PERU, GREEN AND ARREDONDO)

60. Hidalgo County Defendants deny the allegations contained in paragraphs 130, 131, 132, 133, 134, 135 and 136 of the Complaint.

COUNT VII
UNREASONABLE SEARCH AND SEIZURE (OCTOBER 13, 2012 TRAFFIC STOP RE:
DIGITAL PENETRATION) (DEFENDANTS HIDALGO COUNTY, PERU, GREEN AND
ARREDONDO)

61. Hidalgo County Defendants deny the allegations contained in paragraphs 137, 138, 139, 140, 141, 142, 143 and 144 of the Complaint.

COUNT VIII
VIOLATION OF DUE PROCESS (DEFENDANTS HIDALGO COUNTY, PERU,
GREEN AND ARREDONDO)

62. Hidalgo County Defendants deny the allegations contained in paragraphs 145, 146, 147 and 148 of the Complaint.

COUNT IX
MUNICIPAL LIABILITY (DEFENDANT HIDALGO COUNTY)

63. Defendant Hidalgo County denies the allegations contained in paragraphs 149, 150, 151, 152, 153, 154, 155, 156, 157, 158 and 159.

AFFIRMATIVE DEFENSE NO. 1

Plaintiff has failed to state a claim upon which relief can be granted as to Counts I, II, III, IV, V, VI, VII, VIII and IX.

AFFIRMATIVE DEFENSE NO. 2

Plaintiff's claim in Count I fails as there was probable cause to initiate a traffic stop on Plaintiff.

AFFIRMATIVE DEFENSE NO. 3

Plaintiff's claim in Counts II and III fail as the continued interaction between the Hidalgo County Defendants and Plaintiff was consensual.

AFFIRMATIVE DEFENSE NO. 4

Plaintiff's claim in Count IV fails as the search of his vehicle was consensual.

AFFIRMATIVE DEFENSE NO. 5

Plaintiff's claims fail for failure to join an indispensable party or parties.

AFFIRMATIVE DEFENSE NO. 6

Plaintiff's Counts VI and VII fail because a warrant was issued based on probable cause for the search of Plaintiff.

WHEREFORE, having fully answered Plaintiff's Complaint, the Hidalgo County Defendants respectfully request that this Court dismiss Plaintiff's Complaint, award the Hidalgo County Defendants their attorneys' fees and provide for such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

HOLT MYNATT MARTÍNEZ P.C.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of January 2014, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

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